

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

January 2, 2007

TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor, *pag*
Steve Fluke, Environmental Scientist III/Team Lead.

FROM: Priscilla Burton, CPSSc, Environmental Scientist, III. *PWB by ar*

RE: Mid-Term Review; West Ridge, C/007/0041, Utah American Energy, Task ID #2692

SUMMARY:

The mid-term review was initiated on November 9, 2006. This memo addresses the administrative contents of the MRP, as well as the status of the experimental practice.

The Reclamation Agreement is dated April 2, 1999, and was signed by Sam Quigley for the Permittee. On March 19, 1999, National Union Fire Insurance Company of Pittsburgh PA, posted **the surety bond, covering the permit area as specified in the Reclamation Agreement.** The permit area has increased since that time. **The Division should take update the Reclamation Agreement to reflect the current permit acreage of 6,114.89 acres (Table 1-4 and Map 1-0).**

The permit was last issued September 23, 2005. Prior to issuance of the September 2005 permit, the Division and Permittee reached an agreeable solution to Division Order 00A. A final approval of the changes to the MRP was issued May 16, 2006 with Task #2445. **This condition should be removed from the permit.**

The experimental test plots described in Appendix 2-6 were established in 1999. In September 2005, West Ridge Resources, Inc. reclaimed the buried soil resources (as described in Appendix 2-6). Annual monitoring of the reclaimed test plots was not done in 2006. **The Permittee must begin monitoring during the field season of 2007**

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On October 25, 2006, the Division received change in ownership and control information. This information was assigned task number 2684. Electronic records indicate that reviewers were not assigned and the information has not been incorporated into the plan. I have reviewed these records as part of the mid-term review and found the following deficiency:

R645-301-112, The employer identification number is listed for only Murray Energy Corporation, but is required for all other owners and controllers. • According to the schematic in Appendix A, West Ridge Resources, Inc. is controlled by co-owners: Andalex Resources, Inc and the Intermountain Power Agency (I.P.A.). Andalex Resources, Inc. is wholly owned by UtahAmerican Energy, Inc., which is in turn wholly owned by Murray Energy Corporation. The MRP incorrectly states this arrangement in the second sentence of section 112.300, wherein West Ridge Resources is referred to as a wholly owned subsidiary of Andalex Resources Inc.

TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

The Permittee and Operator are West Ridge Resources, Inc., a Utah corporation.(MRP, Section 112.200 *et seq*). The Permittee's address, telephone number, employer identification number and MSHA I.D. number are listed. The Resident Agent is Dave Shaver (Section 112.220). The Permittee will pay the abandoned mine reclamation fee.

West Ridge Resources, Inc. is controlled by co-owners: Andalex Resources, Inc and the Intermountain Power Agency (I.P.A.). Andalex Resources, Inc. is wholly owned by UtahAmerican Energy, Inc., which is in turn wholly owned by Murray Energy Corporation (see schematic in Appendix A). The MRP incorrectly states this arrangement in the second sentence of section 112.300, wherein West Ridge Resources is referred to as a wholly owned subsidiary of Andalex Resources Inc.

Appendix A contains the names of each officer and director of the parent corporations. The employer identification number is listed for only Murray Energy Corporation, but is required for all other owners and controllers. Other Murray Energy affiliates are listed in Section 10.

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Interstate affiliated coal mining and reclamation operations and their permit and MSHA numbers, together with dates of issuance.

Section 112.500 lists surface and subsurface owners in the permit area. Table 1-3 itemizes the lease holdings by surface ownership. Map 5-2 illustrates the surface land ownership and Map 5-3 illustrates subsurface ownership. Surface lands within the permit area are owned by the USA (administered by the BLM), Penta Creek/Magnificent Seven, School Institutional and Trust Lands Administration (SITLA), Dave Hinkins, Glen L. Wells, and Matt Rauhala.

Contiguous surface and subsurface property owners are cited in Section 112.600. Grassy Trail Reservoir is adjacent to the current permit area boundary (within 750 horizontal feet, and inside the Penta Creek lease, see Map 5-3 and 5-4B). The surface and subsurface of the reservoir is owned by Sunnyside City and East Carbon City (see Appendix 1-15).

Findings:

The information provided does not meet the administrative requirements for ownership and control.

R645-301-112, The employer identification number is listed for only Murray Energy Corporation, but is required for all other owners and controllers. • According to the schematic in Appendix A, West Ridge Resources, Inc. is controlled by co-owners: Andalex Resources, Inc and the Intermountain Power Agency (I.P.A.). Andalex Resources, Inc. is wholly owned by UtahAmerican Energy, Inc., which is in turn wholly owned by Murray Energy Corporation. The MRP incorrectly states this arrangement in the second sentence of section 112.300, wherein West Ridge Resources is referred to as a wholly owned subsidiary of Andalex Resources Inc.

VIOLATION INFORMATION

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

There are no pending coal mining applications in the United States (Section 112.350) and Section 113.300 indicates that there are no outstanding violations of SMCRA by any affiliated companies in the United States. Appendix 1-2 contains violation history for all SMCRA permitted mine sites, current for the year 2006.

Findings:

The information provided meets the minimum requirements for Violation Information.

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RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

Analysis:

The permit area is shown on Map 1-0 and sub-surface ownership is found on Map 5-3. [The location of the permit area can also be found on the Mount Bartles and Sunnyside 7.5 min. U.S.G.S quadrangle maps.]

Table 1-4 lists the legal description of the land included in each lease. Appendices 1-4, 1-9, 1-10 through 1-14 and 1-16 provide lease agreements. Federal lease SL-068754 was the original document providing right of entry. Development mining of Penta Creek fee coal (124.92 acres) was added to the permit area in April 2005. State (SITLA) coal leases ML 47711 (801.24) and ML 49287 (881.10 acres) were added in June 2005.

Secondary extraction of Panel #7 within the Penta Creek fee lease (Map 5-4B) was initiated in December 2005. An inspection/monitoring program for the Grassy Trail Reservoir dam is described in Section 114.100 and App. 5-13. The Provo Utah firm of RB&G Engineering, Inc. has been monitoring the site weekly (see 2006 Incoming document 0101.pdf).

The proposed topsoil borrow site is on land administered by SITLA, and Appendix 1-10 of the application includes a copy of the special use lease agreement with SITLA.

Findings:

The information provided meets the Right of Entry requirements of the Rules.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

Analysis:

The public notice required by R645-300-121.150 is found in Appendix 1-1.

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Carbon County granted permission to conduct mining and reclamation operations within 100 feet of the proposed C Canyon road (see Appendix 1-8). The letter from the County includes certain stipulations:

1. Andalex (West Ridge Resources) should avoid any negative impacts to the road and should place a sign on the road indicating that a controlled access area lies beyond.
2. Ingress and egress from the county road to the mine facilities should be designed and constructed to provide maximum safety to public users of the road.
3. All mining operations adjacent to the road should be conducted in a manner that assures safety to the public.
4. Andalex (West Ridge Resources) will be responsible for maintenance of the portion of the road within the disturbed area.
5. Carbon County requires that Andalex (West Ridge Resources) leave the road in place and intact upon final reclamation and terminate the road at a parking/turnaround area for public use.

There are no structures within 300 horizontal feet of surface disturbance connected with the West Ridge mine.

Grassy Trail Reservoir is lies within the Penta Creek fee coal lease. Large bodies of water are protected from mining by R645-301-525.210. Appendix 5-13 and Section 114.100 describe a monitoring plan for this reservoir.

MRP, Section 112.800 states that there are no pending interests or bids on lands contiguous to the permit area.

Findings:

Information provided in the application meets the requirements of the Regulations.

PERMIT TERM

Regulatory References: 30 CFR 778.17; R645-301-116.

Analysis:

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The initial permit was issued April 1, 1999. The permit was re-issued on September 23, 2005. The expiration date is April 1, 2009. There are four conditions on the permit:

1. The annual experimental practice monitoring and the Experimental Practice test plot evaluation. [Status: The experimental test plots described in Appendix 2-6 were established in 1999. In September 2005, West Ridge Resources, Inc. reclaimed the buried soil resources (as described in Appendix 2-6). Annual monitoring of the reclaimed test plots was not done in 2006. The Permittee must begin monitoring during the field season of 2007.]

2. Providing water monitoring information through the database.

Status: [The Permittee has been utilizing the water monitoring database.]

3. Mexican spotted owl survey of riparian area, slopes greater than 40%, mixed conifer forest habitats and cliff habitat areas. Status:
4. Complying with the Division Order 00A. [Status: Prior to issuance of the September 2005 permit, the Division and Permittee reached an agreeable solution to the Division Order 00A. A final approval of the changes to the MRP was issued May 16, 2006 with Task #2445.] This condition should be removed from the permit.

Findings:

Information provided in the application meets the requirements of the Regulations. **However, the Permittee must be notified that annual evaluations are required during the field season of 2007 and every subsequent field season for five years, according to the requirements of Appendix 2-6.**

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

PERMIT AREA

Regulatory Requirements: 30 CFR 783.12; R645-301-521.

Analysis:

The permit area covers 6,114.89 acres (Table 1-4 and Map 1-0). The permit area and adjacent lands are shown on Maps 1-0, 5-2, 5-3, and others. Previous disturbance is shown on Map 5-1. Section R645-301-114 contains a legal description of the proposed permit area together with right of entry information.

Findings:

Information provided is considered adequate to meet the requirements of this section of the regulations.

RECLAMATION PLAN

BONDING AND INSURANCE REQUIREMENTS

Regulatory Reference: 30 CFR Sec. 800; R645-301-800, et seq.

Analysis:

Form of Bond (Reclamation Agreement)

The Reclamation Agreement is dated April 2, 1999, and was signed by Sam Quigley for the Permittee. On March 19, 1999, National Union Fire Insurance Company of Pittsburgh PA, posted the surety bond, covering the permit area as specified in the Reclamation Agreement. The permit area has increased since that time. The Division should take the initiative to update the Reclamation Agreement to reflect the permit acreage of 6,114.89 acres (Table 1-4 and Map 1-0).

Determination of Bond Amount

Information provided in the plan is adequate to allow the Division to calculate the required bond amount. In February 1999, the Division estimated the cost for the Division to reclaim the West Ridge Mine to be \$2,117,000 in 2004 dollars. The Division used the general reclamation plan in the PAP (Section R645-301-540 to R645-301-560) Appendix 5-1 Reclamation Bond Calculations and Appendix 5-5 West Ridge Mine Construction and Reclamation Plan, Means Heavy Construction Cost Data 13th Edit, Blue Book Rental Rates, and the Caterpillar Performance Handbook 29th Edition to calculate the reclamation cost estimate.

In April 2005 (as part of task 2172), the Division reduced the reclamation cost estimate. The Division determined that the reclamation cost would be \$1,753,000 in 2006 dollars.

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Currently, a Surety Bond is filed with the Division in the amount of \$2,117,000 payable to the State of Utah, Division of Oil, Gas and Mining and the Office of Surface Mining Reclamation and Enforcement (OSM).

Terms and Conditions for Liability Insurance

A certificate of insurance showing appropriate coverage has been provided in Appendix 1-1.

Findings:

The Permittee is in compliance with the requirements for bonding.

RECOMMENDATIONS:

The Division should require an update to the 1999 Reclamation Agreement to reflect the permit acreage of 6,114.89 acres (Table 1-4 and Map 1-0).

The 4th condition on the permit regarding compliance with the Division Order has been resolved and should be removed from the permit.

The experimental test plots were reclaimed in 2005. Annual evaluations of the vegetation establishment should have begun in 2006, but did not. The Permittee must be notified that annual evaluations are required during the field season of 2007 and every subsequent field season for five years, according to the requirements of Appendix 2-6.

Two deficiencies were noted with the ownership and control package that was received by the Division on October 25, 2006. These items should be addressed.